



February 11, 2009

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## HOUSE BILL No. 1718

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DIGEST OF HB 1718 (Updated February 9, 2009 8:09 pm - DI 92)

**Citations Affected:** IC 36-7.

**Synopsis:** Sales tax increment financing. Authorizes Warrick County to establish an economic development project district. Increases the maximum term of bonds and leases for an economic development district from 20 to 25 years. Specifies the permitted uses of the sales tax increment.

**Effective:** July 1, 2009.

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**Stilwell, Avery, Crouch**

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January 22, 2009, read first time and referred to Committee on Ways and Means.  
February 10, 2009, amended, reported — Do Pass.

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HB 1718—LS 6226/DI 92+



February 11, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE BILL No. 1718

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-7-26-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies  
3 to the following:

4 (1) A city having a population of more than seventy-five thousand  
5 (75,000) but less than ninety thousand (90,000).

6 (2) A city having a population of more than one hundred five  
7 thousand (105,000) but less than one hundred twenty thousand  
8 (120,000).

9 (3) A city having a population of more than one hundred fifty  
10 thousand (150,000) but less than five hundred thousand  
11 (500,000).

12 (4) A city having a population of more than one hundred twenty  
13 thousand (120,000) but less than one hundred fifty thousand  
14 (150,000).

15 **(5) Warrick County.**

16 SECTION 2. IC 36-7-26-2 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Present economic

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conditions in certain areas of certain cities are stagnant or deteriorating.

(b) Present economic conditions in such areas are beyond remedy and control by existing regulatory processes because of the substantial public financial commitments necessary to encourage significant increases in economic activities in such areas.

**(c) Economic development of certain reclaimed coal land near the Blue Grass Fish and Wildlife Area and Interstate Highway 164 is vital for a county described in section 1(5) of this chapter.**

~~(c)~~ (d) Encouraging economic development in these areas will:

(1) attract new businesses and encourage existing business to remain or expand;

(2) increase temporary and permanent employment opportunities and private sector investment;

(3) protect and increase state and local tax bases; and

(4) encourage overall economic growth in Indiana.

~~(d)~~ (e) Redevelopment and stimulation of economic development benefit the health and welfare of the people of Indiana, are public uses and purposes for which the public money may be spent, and are of public utility and benefit.

~~(e)~~ (f) Economic development in such areas can be accomplished only by a coordinated effort of local and state governments.

~~(f)~~ (g) This chapter shall be liberally construed to carry out the purposes of this chapter and to provide **the county and** cities with maximum flexibility to accomplish those purposes.

SECTION 3. IC 36-7-26-14, AS AMENDED BY P.L.185-2005, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Whenever a commission determines that the redevelopment and economic development of an area situated within the commission's jurisdiction may require the establishment of a district, the commission shall cause to be assembled data sufficient to make the determinations required under section 15 of this chapter, including the following:

(1) Maps and plats showing the boundaries of the proposed district.

(2) A complete list of street names and the range of street numbers of each street situated in the proposed district.

(3) A plan for the redevelopment and economic development of the proposed district. The plan must describe the local public improvements necessary or appropriate for the redevelopment or economic development.

(b) For a city described in section 1(2) or 1(3) of this chapter, the proposed district must contain a commercial retail facility with at least

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1 five hundred thousand (500,000) square feet, and any distributions  
 2 from the fund must be used in the area described in subsection (a) or  
 3 in areas that directly benefit the area described in subsection (a).

4 (c) For a city described in section 1(4) of this chapter, the proposed  
 5 district may not contain any territory outside the boundaries of a  
 6 redevelopment project area established within the central business  
 7 district of the city before 1985.

8 **(d) For a county described in section 1(5) of this chapter, the**  
 9 **proposed district must be located completely or in part on**  
 10 **reclaimed coal land near the Blue Grass Fish and Wildlife Area**  
 11 **and Interstate Highway 164. However, the proposed district must**  
 12 **be at least one hundred (100) yards away from the boundaries of**  
 13 **the Blue Grass Fish and Wildlife Area.**

14 SECTION 4. IC 36-7-26-16 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) **This subsection**  
 16 **does not apply to a county described in section 1(5) of this chapter.**  
 17 Upon adoption of a resolution designating a district under section 15  
 18 of this chapter, the commission shall submit the resolution to the board  
 19 for approval. In submitting the resolution to the board, the commission  
 20 shall deliver to the board:

- 21 (1) the data required under section 14 of this chapter;
- 22 (2) the information concerning the proposed redevelopment and
- 23 economic development of the proposed district; and
- 24 (3) the proposed utilization of the revenues to be received under
- 25 section 23 of this chapter.

26 This information may be modified from time to time after the initial  
 27 submission. The commission shall provide to the board any additional  
 28 information that the board may request from time to time.

29 **(b) This subsection applies only to a county described in section**  
 30 **1(5) of this chapter. Upon adoption of a resolution designating a**  
 31 **district under section 15 of this chapter, the commission shall**  
 32 **submit the resolution to the fiscal body and the county**  
 33 **commissioners of the county for ratification and then shall submit**  
 34 **the resolution to the board for approval. In submitting the**  
 35 **resolution to the board, the commission shall deliver to the board:**

- 36 (1) the data required under section 14 of this chapter;
- 37 (2) the information concerning the proposed redevelopment
- 38 and economic development of the proposed district; and
- 39 (3) the proposed use of the revenues to be received under
- 40 section 23 of this chapter.

41 **This information may be modified periodically after the initial**  
 42 **submission. The commission shall provide to the board any**

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**additional information that the board requests.**

~~(b)~~ (c) Upon adoption of a resolution designating a district under section 15 of this chapter, and upon approval of the resolution by the board under subsection (a), the commission shall publish (in accordance with IC 5-3-1) notice of the adoption and ~~purpose~~ **purpose** of the resolution and of the hearing to be held. The notice must provide a general description of the boundaries of the district and state that information concerning the district can be inspected at the commission's office. The notice must also contain a date when the commission will hold a hearing to receive and hear remonstrances and other testimony from persons interested in or affected by the establishment of the district. All affected persons, including all persons or entities owning property or doing business in the district, shall be considered notified of the pendency of the hearing and of subsequent acts, hearings, adjournments, and resolutions of the commission by the notice given under this section.

SECTION 5. IC 36-7-26-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 20. **(a) This subsection does not apply to a county described in section 1(5) of this chapter.** The determination of the commission to create a district under this chapter, after approval by the board, must be approved by ordinance of the legislative body of the city.

**(b) This subsection applies only to a county described in section 1(5) of this chapter. The determination of the commission to create a district under this chapter, after approval by the board, must be approved by ordinance of the fiscal body of the county.**

SECTION 6. IC 36-7-26-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 24. (a) The commission may issue bonds, payable in whole or in part, from money distributed from the fund to the commission, to finance a local public improvement under IC 36-7-14-25.1 or may make lease rental payments for a local public improvement under IC 36-7-14-25.2 and IC 36-7-14-25.3. The term of any bonds issued under this section may not exceed ~~twenty (20)~~ **twenty-five (25)** years, nor may the term of any lease agreement entered into under this section exceed ~~twenty (20)~~ **twenty-five (25)** years. The commission shall transmit to the board, a transcript of the proceedings with respect to the issuance of the bonds or the execution and delivery of a lease agreement as contemplated by this section. The transcript must include a debt service or lease rental schedule setting forth all payments required in connection with the bonds or the lease rentals.

(b) On January 15 of each year, the commission shall remit to the

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1 treasurer of state the money disbursed from the fund that is credited to  
 2 the net increment account that exceeds the amount needed to pay debt  
 3 service or lease rentals and to establish and maintain a debt service  
 4 reserve under this chapter in the prior year and before May 31 of that  
 5 year. Amounts remitted under this subsection shall be deposited by the  
 6 auditor of state as other gross retail and use taxes are deposited.

7 (c) The commission in a city described in section 1(2) of this  
 8 chapter may distribute money from the fund only for the following:

- 9 (1) Road, interchange, and right-of-way improvements.
- 10 (2) Acquisition costs of a commercial retail facility and for real
- 11 property acquisition costs in furtherance of the road, interchange,
- 12 and right-of-way improvements.
- 13 (3) Demolition of commercial property and any related expenses
- 14 incurred before or after the demolition of the commercial
- 15 property.
- 16 (4) For physical improvements or alterations of property that
- 17 enhance the commercial viability of the district.

18 (d) The commission in a city described in section 1(3) of this  
 19 chapter may distribute money from the fund only for the following  
 20 purposes:

- 21 (1) For road, interchange, and right-of-way improvements and for
- 22 real property acquisition costs in furtherance of the road,
- 23 interchange, and right-of-way improvements.
- 24 (2) For the demolition of commercial property and any related
- 25 expenses incurred before or after the demolition of the
- 26 commercial property.

27 (e) The commission in a city described in section 1(4) of this  
 28 chapter may distribute money from the fund only for the following  
 29 purposes:

- 30 (1) For:
- 31 (A) the acquisition, demolition, and renovation of property;
- 32 and
- 33 (B) site preparation and financing;
- 34 related to the development of housing in the district.
- 35 (2) For physical improvements or alterations of property that
- 36 enhance the commercial viability of the district.

37 **(f) The commission in a county described in section 1(5) of this**  
 38 **chapter may distribute money from the fund for the following**  
 39 **district project costs associated with the development or**  
 40 **redevelopment of the district:**

- 41 **(1) The total cost of acquisition of all land, rights-of-way, and**  
 42 **other property to be acquired, developed, or redeveloped for**

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the project.

(2) Site preparation, including utilities and infrastructure.

(3) Costs associated with the construction or establishment of a museum and education complex and a multi-sport athletic complex that are owned or leased by entities that are exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code.

(4) Road, interchange, and right-of-way improvements.

(5) Public parking facilities.

(6) All reasonable and necessary architectural, engineering, legal, financing, accounting, advertising, bond discount, and supervisory expenses related to the acquisition and development or redevelopment of the property or the issuance of bonds.

(7) Debt service, lease payments, capitalized interest, or debt service reserve for the bonds to the extent the commission determines that a reserve is reasonably required.

SECTION 7. IC 36-7-26-25, AS AMENDED BY P.L.146-2008, SECTION 769, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 25. (a) **This section does not apply to a county described in section 1(5) of this chapter.**

(b) The board may not approve a resolution under section 16 of this chapter until the board has satisfied itself that the city in which the proposed district will be established has maximized the use of tax increment financing under IC 36-7-14 or IC 36-7-14.5 to finance public improvements within or serving the proposed district. The city may not grant property tax abatements to the taxpayers within the proposed district or a district, except that the board may approve a resolution under section 16 of this chapter in the proposed district or a district in which real property tax abatement not to exceed three (3) years has been granted.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1718, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 25 through 42.  
 Page 3, delete lines 1 through 2.  
 Page 4, line 12, delete "corporation" and insert "**board**".  
 Page 4, line 13, delete "corporation," and insert "**board,**".  
 Page 4, line 14, delete "corporation:" and insert "**board:**".  
 Page 4, line 21, delete "corporation" and insert "**board**".  
 Page 4, line 22, delete "corporation" and insert "**board**".  
 Page 4, line 25, after "(a)" insert ",".  
 Page 4, line 25, delete "or the corporation under subsection (b),".  
 Page 5, line 4, delete "corporation," and insert "**board,**".  
 Page 5, delete lines 6 through 42.  
 Delete page 6.  
 Page 7, delete lines 1 through 25.  
 Page 7, line 35, delete "or the corporation".  
 Page 7, line 36, delete "for a county described in section 1.5 of this chapter,".  
 Page 9, line 4, after "complex" insert "**and a multi-sport athletic complex**".  
 Page 9, line 4, delete "is" and insert "**are**".  
 Page 9, line 5, delete "an entity" and insert "**entities**".  
 Page 9, line 5, delete "is" and insert "**are**".  
 Page 9, delete lines 31 through 42.  
 Delete page 10.  
 Renumber all SECTIONS consecutively.  
 and when so amended that said bill do pass.  
 (Reference is to HB 1718 as introduced.)

CRAWFORD, Chair

Committee Vote: yeas 16, nays 7.

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